

REMARKS

Favorable reconsideration of this application, in light of the preceding amendments and following remarks, is respectfully requested.

Claims 1, 2, 4-10, 13, 16 and 19-54 are pending in this application. Claims 1, 2, 4-10, 13, 16 and 19-22 are amended. Claims 3, 11, 12, 14, 15, 17, and 18 are canceled. Applicants submit that no new matter is added by the claim amendments or newly added claims.

Claim Rejections
Rejections under 35 U.S.C. §101

Claims 1, 2, 4-10, 13 and 16 are rejected under 35 U.S.C. § 101 as allegedly being directed towards non-statutory subject matter. In particular, the Examiner alleges, on Page 2 of the Office Action mailed July 10, 2008, the following:

...claims 1, 2, 4-10, 13, and 16 recite a data structure which does not impart functionality to a computer or computing device and is thus considered nonfunctional descriptive material. Since there is not a functional interrelationship with a computer claims 1-16 [sic] are deemed non statutory. See 2106.01.

The Applicants submit the Examiner's assertion that claims 1, 2, 4-10, 13 and 16 are drawn to nonfunctional descriptive material is inconsistent with MPEP § 2106.01 as discussed below.

Nonfunctional descriptive material includes, but is not limited to, music, literary works, and a compilation or mere arrangement of data. Functional descriptive material, however, consists of data structures and computer programs which impart functionality when employed as a computer component. A data structure is "a physical or logical relationship among data elements, designed to support specific data manipulation functions." The New IEEE Standard Dictionary of Electrical and Electronics Terms 308 (5th ed. 1993).

Regarding computer readable mediums encoded with functional descriptive material, the Applicants direct the Examiner to MPEP § 2106.01 which states:

When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally **interrelated to the medium** and will be statutory in most cases since the use of the technology permits the function of the descriptive material to be realized.

Furthermore, MPEP § 2106.01(I) states:

A claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.

Claim 1 is drawn to “[a] physical computer readable medium having an executable data structure for managing reproduction of still images by a reproducing apparatus.” The data structure stored on the computer readable medium dictates how the reproducing apparatus reproduces data. Accordingly, because the computer readable medium recited in claim 1 stores a data structure for managing reproduction of still images by a reproducing apparatus, claim 1 is believed to be directed towards a computer readable medium storing functional descriptive material which is statutory per MPEP § 2106.01. Furthermore, because the Applicants have amended claim 1 to recite a “reproducing apparatus,” the Applicants submit interrelationship requirement as set forth by the Examiner is now satisfied.

In light of the above arguments and amendments, the Applicants respectfully request that the rejection of claim 1, and all claims which depend thereon, under 35 U.S.C. § 101 be withdrawn.

Rejections under 35 U.S.C. §112

The Examiner rejects claim 6 under 35 U.S.C. § 112 alleging the limitation “the recording medium” lacked antecedent basis. Claim 6 is amended to recite “the physical computer readable medium” rather than “the recording medium.” In light of the amendment to claim 6, the Applicants submit the rejection under 35 U.S.C. § 112 is moot. Accordingly, the Applicants respectfully request the rejection of claim 6 under 35 U.S.C. § 112 be withdrawn.

Rejections under 35 U.S.C. §102

Claims 1, 2, 4-7, 9, 10, 13, 16, 19-26, 28-34, 36-42, 44-50 and 52-54 are rejected under 35 U.S.C. 102(e) as being anticipated by Ando et al (USP 7,054,545). The Applicants respectfully traverse.

Initially, the Applicants note that each of the independent claims 1 and 19-22 are amended to recite “...the playlist file including at least one playitem and at least one sub-playitem, the playitem indicating in-point and out-point of the first

clip file for reproducing the presentation data, the sub-playitem indicating in-point and out-point of the second clip file for reproducing the audio data.” The Applicants submit the above features patentably distinguish the independent claims over Ando.

Ando uses the PGC and the CELL for reproducing audio data. The still picture data is linked to the audio data depending on the presentation of the audio data. The information linking the still picture data and the audio data is the entry point. However, Ando does not disclose a PGC and CELL for reproducing still picture data only. That is, Ando includes only management information for the presentation of the audio data, not the picture data. Only when the audio data is reproduced is there information linking the still picture to the audio data.

Therefore, Ando discloses a structure wherein the presentation of the still picture data is dependent upon the presentation of the audio. That is, Ando's still picture data cannot be managed independently of the Ando's audio data.

Claims 1 and 19-22 recite “the playlist file including at least one playitem and at least one sub-playitem, the playitem indicating in-point and out-point of the first clip file for reproducing the presentation data, the sub-playitem indicating in-point and out-point of the second clip file for reproducing the audio data.” The play item and sub-playitem claims provide management information for the presentation of still picture and management information for the audio data separately so that the presentation of still picture and audio data are managed and controlled independently.

Because Ando does not provide management information to allow for independent control of audio and still picture data, Ando does not disclose at least “the playlist file including at least one playitem and at least one sub-playitem, the playitem indicating in-point and out-point of the first clip file for reproducing the presentation data, the sub-playitem indicating in-point and out-point of the second clip file for reproducing the audio data,” as recited in claims 1 and 19-22.

For at least the reasons given above, the Applicants respectfully request the rejection of claims 1 and 19-22, and all claims which depend thereon, under 35 U.S.C. § 102(e) as being anticipated by Ando be withdrawn.

Rejections under 35 U.S.C. §103

Claims 8, 27, 35, 43 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ando et al (USP 7,054,545) in view of Kato (USP 7,224,890). The Applicants respectfully traverse.

As argued above, independent claims 1 and 19-22 are believed to be patentable over Ando because Ando does not disclose, at least, "...the playlist file including at least one playitem and at least one sub-playitem, the playitem indicating in-point and out-point of the first clip file for reproducing the presentation data, the sub-playitem indicating in-point and out-point of the second clip file for reproducing the audio data." Furthermore, the Examiner has not alleged the above features are disclosed in Kato, accordingly, the Applicants submit the Examiner has failed to establish claims 1 and 19-22 are *prima facie* obvious. Accordingly, the Applicants submit the Examiner has failed to establish claims 8, 27, 35, 43 and 51 are nonobvious over the combination of Ando and Kato at least because the Examiner has failed to show their respective base claims are nonobvious.

For at least the reasons given above, the Applicants respectfully request the rejection of claims 8, 27, 35, 43 and 51 under 35 U.S.C. § 103(a) as being obvious over Ando in view of Kato be withdrawn.

CONCLUSION

In view of the above remarks and amendments, Applicants respectfully submit that each of the rejection has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

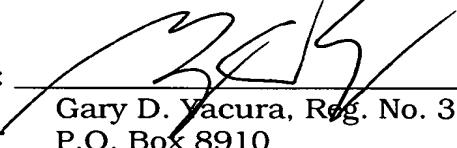
Should there by any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gary D. Yacura at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By: _____


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